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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,743	01/13/2004	Alvaro Mauricio Olarte	03719-P0002A	1847
24126	7590	10/12/2006	EXAMINER	
ST. ONGE STEWARD JOHNSTON & REENS, LLC 986 BEDFORD STREET STAMFORD, CT 06905-5619			NELSON JR, MILTON	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/756,743	<b>Applicant(s)</b> OLARTE, ALVARO MAURICIO	
	<b>Examiner</b> Milton Nelson, Jr.	<b>Art Unit</b> 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-77 is/are pending in the application.
- 4a) Of the above claim(s) 35-58 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18,20,24-34 and 59-77 is/are allowed.
- 6) ☒ Claim(s) 1, 14, 16, 17, 21-23 is/are rejected.
- 7) ☒ Claim(s) 2-13 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____                                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____   | 6) <input type="checkbox"/> Other: ____                           |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 31, 2006 has been entered.

### ***Claim Rejections - 35 USC § 112***

The rejections of claims 26, 28, 29, 32 and 59-77 under 35 U.S.C. 112, second paragraph have been overcome by Applicant's amendment.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Jensen (6296315). Note the beam (10), base (see lines 50-55 in column 6), seat back

assembly (3), seat connection mechanisms (4), and seat bottom assemblies (2).

Regarding claim 16, note the single continuous back member (see abstract).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jensen (6296315) in view of Padovano (3785600). Jensen shows all claimed features of the instant invention with the exception of the at least one base being fastened in place. Note the discussion of Jensen above. Padovano conventionally teaches providing a seating assembly base (9) as fastened in place. Note that the base is fastened at least in place to the floor (3), as shown in Figure 3, and to the beam (7). It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by conventionally fastening the base in place in order to enhance structural stability and user safety.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jensen (6296315) in view of Padovano (3785600). Jensen shows all claimed features of the instant invention with the exception of the at least one base being positioned

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substantially beneath at least one seat bottom assembly. Note the discussion of Jensen above. Padovano conventionally teaches providing a seating assembly with at least one base being positioned substantially beneath at least one seat bottom assembly. Note Figure 2. It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by conventionally providing at least one base as positioned substantially beneath the at least one seat bottom assembly. This provides a stabilized configuration for the assembly for enhanced structural stability and user safety.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jensen (6296315) in view of Miller (5890761). Jensen shows all claimed features of the instant invention with the exception of an end attached to either end of the beam to define a length of the seating assembly. Note the discussion of Jensen above. Miller conventionally teaches providing a seating assembly with an end (12 or 14) attached to either end of a beam (22) to define a length of the seating assembly. Note Figure 4. It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by conventionally adding an end attached to either end of the beam to define a length of the seating assembly. This provides enhanced structural stability and aesthetic appeal of the assembly.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jensen (6296315) in view of Day (3850476). Jensen shows all claimed features of the instant invention with the exception of the seat connection mechanisms being configured such that the seat bottom assemblies are gravity lifted. Note the discussion of Jensen above. Day conventionally teaches providing a seating assembly with a seat connection mechanism being configured such that the seat bottom assembly is gravity lifted. Note the counterweight (24) added to a portion (16) of the connection mechanism. It can be realized that gravity acts on the counterweight in order to lift the seat bottom. It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of Jensen by conventionally adding a counterweight to the connection mechanisms so that the seat bottoms can be gravity lifted. This provides automatic lifting of the seat bottom when the seat bottom is unoccupied.

Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jensen (6296315) in view of Infanti (6135562). Jensen shows all claimed features of the instant invention with the exception of the plurality of seat bottom assemblies further comprising removable seat covers (claim 22); and the plurality of seat back assemblies further comprising removable back pads (claim 23). Note the discussion of Jensen above. The secondary reference conventionally teaches providing a seating assembly with a seat bottom assembly comprising a removable seat cover (57); and a seat back assembly comprising a removable back pad (63). It would have been

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obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by conventionally providing the plurality of seat bottom assemblies with removable seat covers (claim 22); and providing the plurality of seat back assemblies with removable back pads (claim 23). Such enhances aesthetic appeal and user comfort.

#### ***Allowable Subject Matter***

Claims 2-13, 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 18, 20, 24-34, and 59-77 are allowed.

#### ***Response to Amendment/Arguments***

Applicant's response has been fully considered. Remaining issues are described in the above sections. A new grounds of rejection has been necessitated by Applicant's amendment.

#### ***Election/Restriction***

Claims 35-58 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention or embodiment of the invention,

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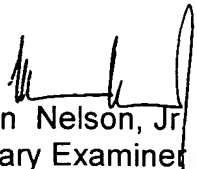
there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 5, 2005.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton Nelson, Jr. whose telephone number is (571) 272-6861. **The examiner can normally be reached on Monday-Wednesday, and alternate Fridays, 5:30-3:00 EST.**

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Milton Nelson, Jr.,  
Primary Examiner  
Art Unit 3636

mn  
September 30, 2006